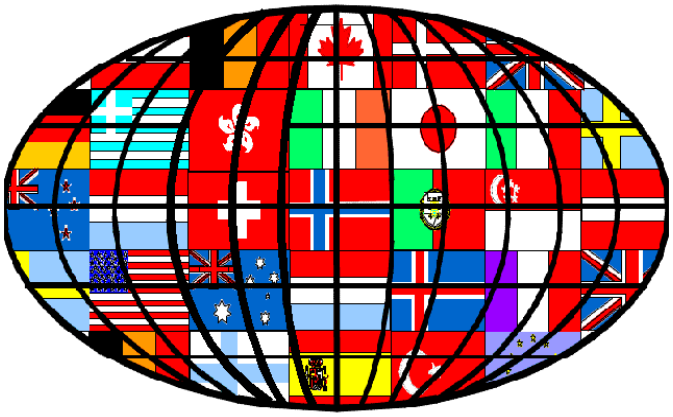
FATF-IX

FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING



ANNUAL REPORT 1997-1998

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SUMMARY

1. Belgium chaired the ninth round of the Financial Action Task Force on Money Laundering (FATF). A major task conducted during the 1997-1998 round by the FATF was the review of its future mission and programme of work from 1999 to 2004. The FATF also continued its work relating to the implementation and refinement of anti-money laundering measures. In addition, the Task Force further developed co-operation with a number of international organisations concerned with the combat of money laundering.

2. On 28 April 1998, FATF Ministers and the European Commissioner for Financial Services endorsed the report prepared by the FATF which defines a five year plan -- 1999-2004 -- to spread the anti-money laundering message to all continents and regions of the globe. To this end, Ministers urged FATF to foster the establishment of a world-wide anti-money laundering network based on adequate expansion of the FATF membership, the development of FATF-style regional bodies such as the Caribbean FATF and the Asia/Pacific Group on Money Laundering, and close co-operation with all the relevant international organisations, in particular the United Nations Office for Drug Control and Crime Prevention (UNODCCP) and the International Financial Institutions. They also agreed that other important tasks of the FATF for the next five years should include improving the implementation of the forty Recommendations within its own membership and strengthening the review of money laundering trends and countermeasures.

3. As in previous rounds, the Task Force devoted a considerable part of its work to the monitoring of members' implementation of the forty Recommendations on the basis of the self-assessment and mutual evaluation procedures. Through an enhanced process, which now includes a question and answer session at a Plenary meeting, the 1997-1998 self-assessment exercise showed that members had continued to make progress in implementing the forty Recommendations. Furthermore, the mutual evaluation procedure, which provides for a thorough examination of the counter-measures in place and their effectiveness, continues to be an irreplaceable monitoring mechanism. Sixteen FATF members have now been examined in the second round of mutual evaluations. Summaries of the eight mutual evaluation examinations (Canada, Switzerland, Germany, the Netherlands, Italy, Japan, Norway and Greece) which were conducted during FATF-IX are contained in Part II of the report.

4. The assessment of current and future money laundering threats, an essential part of the FATF's work, confirmed the trends observed in previous exercises. The annual survey of money laundering typologies [1] clearly noted the emergence of new areas which are not yet fully mapped: electronic money, new payment technologies, remittance businesses, non-financial professions, the insurance sector and stock exchange dealers. The FATF also continued the dialogue which has been opened with the private sector through a second Forum with representatives from the international financial services industry. The event provided an opportunity for representatives from the industry to meet with FATF government delegates and discuss issues of importance such as the need to provide feedback to reporting financial institutions. During the round,

[1] See Annex C.

experts from FATF members and several international organisations continued the work commenced in 1997 on estimating the magnitude of money laundering.

5. The FATF's strategy for relations with non-members is directed towards supporting the various activities of other regional and international bodies involved in the fight against money laundering. In this regard, it should be noted that a Select Committee of the Council of Europe and the Offshore Group of Banking Supervisors commenced mutual evaluation programmes of the anti-money laundering measures taken by their members. While the Caribbean FATF pursued its anti-money laundering activities, notably its mutual evaluation programme and typologies exercise, a major event during 1997-1998 was the first meeting of the Asia/Pacific Group on Money Laundering, which was held in March 1998 and which was attended by 23 countries and territories throughout the region. Finally, in September 1997, the FATF carried out a mission to Cyprus and in October 1997, it organised, with the Bank of Russia, an international money laundering Conference in St. Petersburg.

6. The necessary development of in-depth international co-operation in combating money laundering was clearly demonstrated at the highest level when Mr. Michel Camdessus, Managing Director of the International Monetary Fund[2], and Mr. Pino Arlacchi, Executive Director of the United Nations Office for Drug Control and Crime Prevention, addressed the February 1998 FATF Plenary meeting. To meet the request for technical assistance from its member States, particularly in fulfilling their obligations to counter money laundering deriving from the 1988 Vienna Convention, the United Nations launched, in 1997, their Global Programme against Money Laundering. Furthermore, the 1998 June Special Session of the United Nations General Assembly provided an opportunity for governments to renew their commitment to combat the drug problem, including the countering of money laundering. In 1997-1998, the UNODCCP and the FATF co-operated in several anti-money laundering meetings. The Task Force also initiated contacts with the regional development banks, particularly the Inter-American Development Bank.

7. According to the objectives decided in the review of the FATF's future, the issue of enlarging FATF membership will need to be addressed in 1998-1999. This critical task will be carried out under the Presidency of Japan, which will commence on 1 July 1998.

[2] See Annex A.

INTRODUCTION

8. The Financial Action Task Force was established by the G-7 Summit in Paris in 1989 to examine measures to combat money laundering. In 1990, the FATF issued forty Recommendations for action against this phenomenon. These were revised in 1996 to reflect changes in money laundering trends. Membership of the FATF comprises twenty six governments[3] and two regional organisations[4], representing major financial centres of North America, Europe and Asia. The delegations of the Task Force's members are drawn from a wide range of disciplines, including experts from the ministries of finance, justice, interior and external affairs, financial regulatory authorities and law enforcement agencies.

9. In July 1997, Belgium succeeded Italy in holding the Presidency of the Task Force for its ninth round of work. Three Plenary meetings were held in 1997-1998, two at the headquarters of the OECD in Paris and one in Brussels. Two special experts' meetings were held; the first in November 1997 in Paris to consider trends and developments in money laundering methods and counter-measures and the second in May 1998 to work on the issue of estimating the size of money laundering. In addition, a meeting of the FATF Ministers was held in the margins of the OECD Council meeting at Ministerial level on 28 April 1998.

10. The FATF co-operates closely with international and regional organisations concerned with combating money laundering. Representatives from the Asia/Pacific Group on Money Laundering (APG), the Caribbean Financial Action Task Force (CFATF), the Council of Europe, the Commonwealth Secretariat, the European Bank for Reconstruction and Development, the International Monetary Fund (IMF), the Inter-American Development Bank (IDB), the Inter-American Drug Abuse Control Commission (CICAD), Interpol, the International Organisation of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors (OGBS), the United Nations Office for Drug Control and Crime Prevention (UNODCCP), the World Bank and the World Customs Organisation (WCO) attended various FATF meetings during the year.

11. A major element of the deliberations of the Task Force during 1997-1998 was the review of its future mission. Part I of the report sets out the conclusions of this review, which were endorsed by all FATF member governments. Parts II, III and IV of the report outline the progress made over the past twelve months in the following three areas:

- monitoring the implementation of anti-money laundering measures by its members;
- reviewing money laundering methods and countermeasures; and
- promoting the widest possible international action against money laundering.

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[3] Australia; Austria; Belgium; Canada; Denmark; Finland; France; Germany; Greece; Hong Kong, China; Iceland; Ireland; Italy; Japan; Luxembourg; the Kingdom of the Netherlands; New Zealand; Norway; Portugal; Singapore; Spain; Sweden; Switzerland; Turkey; the United Kingdom and the United States.

[4] European Commission and Gulf Cooperation Council.

I. THE FUTURE MISSION OF THE FINANCIAL ACTION TASK FORCE

12. In 1994, five years after the FATF was established by the 1989 G-7 Summit, its members decided that the Task Force -- which is not a permanent international organisation -- should continue its work for a further five years, i.e. until 1999. It was also agreed that no final decision on the future of FATF should be taken until 1997-1998, at which time it would be necessary to consider how the fight against money laundering could best be carried forward. Therefore, an in-depth review of the FATF's needs, mission and work programme, which is summarised in the paragraphs below, was carried out during FATF-IX.

A. PROGRESS ACHIEVED

13. The FATF issued in 1990 and revised in 1996, forty Recommendations which cover legal, financial regulatory, law enforcement and international action which governments should take to combat money laundering. The FATF's forty Recommendations have become an internationally accepted benchmark in this area.[5] Since 1991, the FATF has concentrated on the following three main tasks: establishing standards and reviewing money laundering methods; monitoring the implementation of anti-money laundering measures by member governments; and promoting the adoption of counter measures by non-member countries.

14. Considerable progress has been made in the implementation of anti-money laundering measures by FATF members. By mid-1999, every member will have undergone two evaluations of their anti-money laundering systems. The first round of evaluations dealt with the question of whether all members had adequately implemented the forty Recommendations, while the second round deals with the effectiveness of the anti-money laundering system in each member. The FATF has also conducted an ambitious programme of missions and seminars in non-member countries to promote awareness of the money laundering problem and to encourage them to take action. While the FATF's forty Recommendations have gained some international prominence, a large number of countries around the world still need to implement anti-money laundering systems.

15. There is no doubt that the FATF has played a key role over the last eight years in building an international consensus on the measures that need to be taken to combat money laundering. It has also helped to persuade many countries to implement these measures. In this process, it has helped to create a "network" of money laundering experts in each of the FATF members, improving co-operation and the flow of information, both at the domestic level and internationally. Moreover, the FATF has achieved this with very limited permanent resources.

B. FUTURE MISSION AND PROGRAMME OF WORK

(i) The need for continued action against money laundering and the major tasks to be accomplished

16. Although considerable progress has been made in the fight against money laundering since 1989, much remains to be done and there is an obvious need for continued mobilisation at the international level to deepen and widen anti-money laundering action. The major tasks are described hereafter.

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[5] See Annex B.

(a) To establish a world-wide anti-money laundering network and to spread the FATF's message to all continents and regions of the globe

17. The FATF has decided to foster the establishment of a world-wide anti-money laundering network based on :

- an adequate expansion of the FATF membership to strategically important countries which already have certain key anti-money laundering measures in place (criminalisation of money laundering; mandatory customer identification and suspicious/unusual transactions reporting by financial institutions), and which are politically determined to make a full commitment towards the implementation of the forty Recommendations, and which could play a major role in their regions in the process of combating money laundering;

- the development of FATF-style regional bodies, especially in areas where FATF is not sufficiently represented and strengthening of work of bodies which already exist (the CFATF, the Asia/Pacific Group on Money Laundering, the Council of Europe, the OAS/CICAD and the OGBS); and

- close co-operation with relevant international organisations, in particular the United Nations bodies and the International Financial Institutions.

(b) Improve the implementation of the forty Recommendations in FATF members

18. Improving the implementation of the forty Recommendations in FATF members is an important and challenging policy objective to be pursued. There is a need to ensure that all members have implemented the revised forty Recommendations in their entirety and in an effective manner. It was therefore agreed to review the existing monitoring mechanisms so as to establish a renewed assessment process, focusing on compliance with the 1996 Recommendations, and involving the following elements:

- en enhanced self-assessment process; and

- a third round of simplified mutual evaluations for all FATF members starting in 2001, focusing exclusively on compliance with the revised parts of the Recommendations, the areas of significant deficiencies identified in the second round and generally the effectiveness of the counter-measures.

(c) Strengthen the review of money laundering trends and countermeasures

19. Money laundering is an evolving activity, the trends of which should continue to be monitored. It is therefore crucial for FATF members to acquire the best possible experience and knowledge of money laundering trends and techniques and to assess the effectiveness of the FATF Recommendations. There is also a need to extend the geographical scope of the future typologies exercises. The latter may raise the issue of the need for new countermeasures. If this occurs, the FATF must be at the forefront of the elaboration of these new countermeasures. In order to achieve a set of Recommendations to counter actual money laundering threats, the FATF could embark, if necessary, on a further updating exercise in 2003/2004, covering new countermeasures as well as perhaps reviewing those Recommendations which currently ask members simply to consider and decide whether action should be mandatory or not, incorporating the input from FATF-style regional bodies. In any case, FATF must ensure that the forty Recommendations remain the most effective and widely-respected international standard in the anti-money laundering area.

(ii) Future Direction, Duration and Objectives of the FATF

20. Action to combat money laundering must rely on effective co-operation between experts from a wide range of disciplines: legal and judicial, financial and regulatory, and law enforcement. The success of the FATF's work so far demonstrates that there is no alternative international organisation, body or group, which has the necessary expertise, i.e. of a multidisciplinary nature with the experience and ability to assume responsibility of the FATF in a flexible and efficient way.

21. The medium to long term objectives of the FATF are: the development of credible and effective FATF-style regional bodies and an adequate expansion of its membership to include strategically important new members. At the beginning of 2005, the FATF should ideally have achieved its objective of promoting the establishment of a world-wide anti-money laundering network. In any case, an assessment of the FATF's achievements and strategy between 1999 and 2004, and future should be carried out in 2003-2004.

C. POLITICAL SUPPORTS TO THE FATF'S FUTURE MISSION

22. A Ministerial meeting of the FATF, held on 28 April 1998 in the margins of the OECD Council meeting at Ministerial level, fully endorsed the conclusions of the review of the future of the Task Force and the continuation of its work until 2004. The Ministers stressed that the major focus of FATF's future work should be to promote the establishment of a world-wide anti-money laundering network encompassing all continents and regions of the globe. They particularly supported the intention to bring into the FATF some additional strategically important countries which are committed to the combat of money laundering and to foster the development of further regional anti-money laundering bodies, in addition to the Caribbean FATF and the Asia Pacific Group on money laundering.

23. Further expressions of support towards the FATF's future mission were made at political level. In their April 1998 Communiqué, the Ministers of the OECD "welcomed the decision of the FATF Ministerial meeting to extend its work for a further five years and the new strategy it has adopted" and also noted the "FATF decision to promote the establishment of a world-wide anti-money laundering network based on adequate expansion of membership".

24. On 8 May 1998, the G-7 Finance Ministers "commended the work that FATF has carried out since its creation to develop and promote action against money laundering" and endorsed the decision of the FATF to continue its mandate for a further five years and the new strategy it has adopted". The G-7 Finance Ministers also called on the FATF to make recommendations on what can be done to rectify the abuses raised by a "number of countries and territories, including some financial offshore centres, which continue to offer excessive banking secrecy and allow screen companies to be used for illegal purposes".

25. Finally, on 17 May 1998, the G-8 Heads of State and Government "welcomed the FATF decision to continue and enlarge its work to combat money laundering in partnership with regional groupings" and "placed special emphasis on the issues of money laundering and financial crime, including issues raised by offshore financial centres".

II. MONITORING THE IMPLEMENTATION OF ANTI-MONEY LAUNDERING MEASURES

26. A considerable part of FATF's work focuses on monitoring the implementation by its members of the forty Recommendations. FATF members are clearly committed to the discipline of multilateral surveillance and peer review. All members have their implementation of the Recommendations monitored through a two-pronged approach:

- an annual self-assessment exercise; and,

- the more detailed mutual evaluation process under which each member is subject to an on-site examination.

A. 1997/1998 SELF-ASSESSMENT EXERCISE

(i) Process

27. In this exercise, each member is asked to provide information concerning the status of their implementation of the forty Recommendations. This information is then compiled and analysed, and provides the basis for assessing to what extent the forty Recommendations have been implemented by both individual countries and the group as a whole.

(ii) State of implementation[6]

(a) Legal issues

28. The overall state of implementation is very similar to the situation recorded in the previous round, which reflects that almost all members are in compliance with a large majority of the Recommendations, though there are still a few areas of weakness. It is satisfying to note that the Vienna Convention has now been ratified and implemented by twenty-three members, and that the remaining three members will soon be in a position of full compliance.

29. In regard to most Recommendations the position is quite satisfactory. All members have enacted laws to make drug money laundering a criminal offence, and all but three members have enacted an offence which covers the laundering of the proceeds of range of crimes in addition to drug trafficking. The overall level of compliance will improve considerably when Japan, Luxembourg and Singapore have extended their drug money laundering offences to serious crimes. In Luxembourg, a Bill extending money laundering offences beyond drug trafficking is about to be enacted. In Japan, a Bill of a similar type has been submitted to the Diet. Singapore expects to put in place laws to criminalise serious crimes money laundering before the end of 1998.

30. A number of members also still need to take measures in relation to confiscation and provisional measures, both domestically and pursuant to mutual legal assistance. In relation to domestic confiscation, nineteen members are in full compliance, with six in partial compliance, whilst for mutual legal assistance in this area, there are seventeen members in full compliance, five partially comply, and three are out of compliance (Canada, Greece and the United States). These figures reflect only a marginal increase in compliance over the past few years, and despite the attention paid by FATF to this issue, there needs to be urgent action by some members to bring themselves into compliance with the relevant Recommendations.

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[6] A copy of the summary of compliance with the legal and financial recommendations is at Annex D.

(b) Financial issues

31. The 1997-1998 self-assessment exercise generally showed a slight improvement in the overall implementation of the FATF Recommendations on financial issues. Significant improvements were recorded in relation to two new recommendations that were introduced in 1996, namely Recommendation 13 dealing with the need to pay attention to new technologies, and Recommendation 25 dealing with shell corporations. However, differences still remain in the relative state of implementation between the banking sector and the non-bank financial institution sector. On an individual country basis, Finland and Switzerland made significant progress following the enactment of new legislation.

32. Almost all members comply fully with customer identification and record-keeping requirements for banks, but there are some persistent gaps in coverage with respect to certain categories of non-bank financial institutions. However, as mentioned in the mutual evaluation section of this report, the serious concerns regarding the anonymous passbooks for residents in Austria have not been resolved, and are being pursued through the FATF non-compliance procedures.

33. In relation to the requirement for financial institutions to report suspicious transactions and related measures, the position is generally very satisfactory in relation to banks and almost as good for non-bank financial institutions. However there is still room for improvement with respect to non-bank financial institutions and the need to pay attention to large, unusual transactions and the obligation to develop internal controls. For banks, almost all members have now established anti-money laundering guidelines and taken steps to guard banks against control or acquisition by criminals, and though there were improvements, a number of countries still have to take similar measures for all categories of non-bank financial institutions. Canada and Iceland need to take urgent measures to bring themselves into full compliance with respect to various categories of non-bank financial institutions, and additional measures also need to be taken in the banking sector. In the United States, there is also a pressing need to finalise and implement the proposed regulations to significantly enhance anti-money laundering controls over many categories of non-bank financial institutions, particularly bureaux de change, money remitters, check cashers, issuers and sellers of money orders and travellers cheques, casinos and securities brokers and dealers. The United States is also urged to place additional money laundering controls on insurance companies.

(iii) Summary of performance

34. The overall conclusion from the 1997-1998 self-assessment exercise is that a large majority of members have reached an acceptable level of compliance with the 1996 forty Recommendations, and notable progress was made during the year by some members. However, as mentioned above, a number of members still need to take steps to widen their money laundering offence, or to implement a fuller range of anti-money laundering measures in the financial sector. It is important that these changes be brought in as soon as possible.

(iv) Gulf Cooperation Council

35. In May 1997, the GCC agreed to carry out, in conjunction with the FATF, an evaluation of the anti-money laundering measures that had been taken by its six member States - Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (U.A.E), and as a first step self-assessment questionnaires were sent in August 1997. However, due to partial and incomplete replies from some GCC members, the FATF is currently unable to determine the level of compliance with the forty Recommendations. It was therefore agreed that a high level mission will meet with the relevant officials in the Secretariat General of the GCC and the U.A.E. in order to obtain more information on the implementation of the forty Recommendations in the

GCC member States and to discuss how to improve the implementation of effective anti-money laundering systems in the Gulf region.

B. MUTUAL EVALUATIONS

(i) Objective and process of the second round of mutual evaluations

36. The second and major element for monitoring the implementation of the FATF Recommendations is the mutual evaluation process. Each member is examined in turn by the FATF on the basis of a report drawn up by a team of three or four selected experts drawn from the legal, financial and law enforcement fields of other members. The purpose of this exercise is to provide a comprehensive and objective assessment of the extent to which the country in question has moved forward in implementing effective measures to counter money laundering and to highlight areas in which further progress may still be required.

(ii) Summaries of reports

Canada

37. The largest source of criminal proceeds laundered in Canada comes from narcotics trafficking (approximately 70%), however numerous other types of profitable criminal activities exist such as tobacco and alcohol smuggling, illegal gambling, smuggling and white collar crimes such as fraud, counterfeiting and computer/ telecommunications crimes. Money laundering mechanisms in Canada involve the use of a wide range of techniques and methods in many different parts of the financial and non-financial sectors. Money laundering has occurred through deposit taking institutions, currency exchanges, the securities industry, real estate, incorporation and operation of shell companies, dealings in gold and precious metals, the insurance industry, gambling facilities (lotteries and casinos), automobile and boat dealerships, professionals (lawyers and accountants), and cross border movement of illicit proceeds. The pattern of money laundering has changed in recent years, with a movement from bank to near-banks/currency exchanges by money launderers, whilst an important external factor is the location of Canada next to the United States.

38. Canada's money laundering control scheme is based on a strong penal response through the prosecution of money launderers and the confiscation of the proceeds of crime. There have been a limited number of significant direct changes made to the anti-money laundering regime since the first evaluation, though some amendments have indirectly strengthened the regime. The most significant legislative changes were measures contained in organised crime legislation enacted in May 1997 which widen the money laundering offences, and introduce a power to freeze and confiscate the instrumentalities of organised crime offences. Other amendments improved several aspects of the forfeiture legislation, and give the police extra powers with respect to "sting" and controlled delivery operations. Another significant measure was the creation of 13 new Integrated Proceeds of Crime (IPOC) units to combat money laundering and organised crime. In the financial sector, the Office of the Superintendent of Financial Institutions published new anti-money laundering guidelines in 1996.

39. The penal legislation appears to be working well, though the extension of the more serious money laundering offence to all serious crimes, together with some minor changes to the forfeiture legislation, would make the system even more effective. Canada must be strongly commended for the willingness to apply significant resources into tackling the problem of proceeds of crime - a measure which will undoubtedly result in many more prosecutions and forfeited proceeds. Considerable efforts have also been made in relation to international co-operation and the only major weakness is the inability to effectively and efficiently respond to requests for assistance in relation to restraint and forfeiture. The use of domestic money laundering proceedings to seize, restrain and forfeit the proceeds of offences committed in other countries is recognised as sometimes ineffective, and legislation to allow Canada to enforce foreign forfeiture requests directly should be introduced.

40. In the law enforcement area the suspicious transaction reporting regime does not appear to be working effectively, and there needs to be an urgent resolution of the internal review process which has been continuing since 1993. The examiners consider that the most essential improvements are to create a new regime, consistent with the Charter of Rights and Freedoms, which makes reporting mandatory, and to create a new financial intelligence unit which would deal with the collection, management, analysis and dissemination of suspicious transaction reports and other relevant intelligence data. Other measures which would assist are detailed guidance on what transactions may be suspicious, a penal or administrative sanction for failing to report, and improved general and specific feedback. In addition, detailed proposals need to be created and taken forward for a system of cross border reporting and ancillary powers for Customs officers. The adoption of these measures, when combined with the new IPOC units, should lead to a much more effective system.

41. Changes are also required in the financial sector, where the mixture of federal, provincial and self regulation, the lack of uniformity and the combination of requirements laid down by law and also by guidelines, makes the system complex. The limited customer identification obligations in relation to corporations and beneficial owners of accounts is not in conformity with Recommendation 11, and additional measures should be enacted to remove this discrepancy. The legislation should also be extended to cover other types of non-bank financial institution such as money remitters and check cashers, as well as non-financial businesses such as casinos. The threat posed by professional facilitators of money laundering should also be examined. The regulations and systems for compliance review, internal controls, education and training for the different parts of the non-bank financial sector need to be more comprehensive and uniform, and there needs to be greater co-ordination and support by government agencies.

42. The Canadian anti-money laundering system as a whole is substantially in compliance with the almost all of the 1990 FATF forty Recommendations. In those areas where it has been proactive such as prosecutions, forfeiture, and general international assistance it has achieved considerable success. It now needs to expeditiously extend this proactive response, and resolve the deficiencies identified above. By doing so it will create a law enforcement and regulatory system which should combat money laundering most effectively.

Switzerland

43. Switzerland's central geographical location, its relative political, social and monetary stability, the current context of liberalisation and the professional secrecy that characterises the country's financial system are attractive to all investors, whether the origin of their funds is legal or illegal. In addition, advanced technology and a great diversity of institutions in the financial centre expose Switzerland to being used in international money laundering schemes. In this context, Switzerland is used primarily, but not exclusively, at the "layering" stage of the money laundering process.

44. There are three main facets to Swiss anti-laundering policy: a very broad definition of laundering offences involving assets derived from any crime; a system of self-regulation in the financial sector (banking and non-banking) accompanied by State monitoring; a "reporting right", which since 1994 has authorised financial intermediaries to convey their suspicions and which was replaced on 1 April 1998 with a "reporting obligation".

45. For some years, the Swiss authorities have been endeavouring to toughen the penal law in order to step up the fight against new forms of crime, particularly economic offences and organised crime. As a result, on 1 August 1990, Articles 305 *bis* and 305 *ter* of the Penal Code), on the offences of money laundering and lack of due vigilance in financial transactions respectively, entered into force. This arsenal of criminal law

was supplemented on 1 August 1994 by a second round of measures against organised crime which strengthened powers of confiscation and authorised financial intermediaries to report suspicious transactions (CP: Article 305 *ter*, paragraph 2). In addition, the Federal Act of 7 October 1994 on the Central Offices of the Federal Criminal Police set up an organisation vital to improved prosecution of persons involved in organised crime.

46. In the financial sector, the Federal Banking Commission (CFB) issued a circular of 18 December 1991 to all licensed banks and auditing firms containing guidelines for preventing and combating money laundering. Concerning the obligation to identify, CFB circular 91/3 mirrors the Agreement on the Banks' Obligation of Diligence (CDB).

47. A Law on counter-laundering in the financial sector ("the Money Laundering Act", or LBA) was adopted by the Parliament on 10 October 1997. Under this legislation, all physical and legal persons active in the financial sector would be subject to special obligations of diligence (to ascertain the identity of customers and beneficial owners, to clarify certain transactions and to establish and keep certain documents). These persons must also take organisational measures to prevent money laundering. The LBA calls for the creation of a Money Laundering Control Authority responsible for monitoring the compliance of financial intermediaries with anti-laundering obligations. Intermediaries will also be required to file reports with the Money Laundering Reporting Office and to freeze suspicious assets if they have reason to suspect that money is being laundered. The Act entered into force on 1 April 1998.

48. Although the penal aspect of the Swiss system has been significantly improved, prevention for the non-banking sector should be in accord with FATF Recommendations with the entry into force of the LBA. In order to comply with the new Recommendation 15, the LBA introduces a reporting obligation. However, as this obligation only exists when business relations are established, compliance with this Recommendation would not be fully met if a restrictive interpretation should be made of it. Before the entry into force of the LBA, Switzerland did not comply with Recommendation 17. The LBA introduces a prohibition to inform the customer during the period of freezing established by Article 10, this prohibition will be generally relayed by a decision of the penal cantonal authorities which are competent to decide during the entire investigation**.** In general, the current proposals to remedy shortcomings pointed out in the first evaluation are significant, but their application is too slow.

49. Switzerland is nevertheless to be congratulated on the LBA definition of professionals subject to its anti-money laundering obligations, which spans the entire financial sector, including financial activities carried on professionally by lawyers. However, assessment of compliance with the new obligations of vigilance by non-banking professions will have to await implementation of the LBA, even though Article 305 ter already imposed an obligation of vigilance in financial transactions.

50. At this stage, it is impossible to assess the effectiveness of the system for reporting suspicions, given the lack of appropriate statistics. The LBA will contribute to an appreciable improvement in this system with the introduction of an obligation to declare suspicions of which the incomplete nature of the obligation, due to the fact that the latter arises only at the establishment of business relations, should be noted as well as the restrictive interpretation of it by financial institutions. The Swiss financial sector rather tends to protect itself against money launderers by being scrupulous in entering into business relations and hence gives preference to refusal to enter business relations with suspect customers. Although the LBA is intended to change this state of affairs, the role of the supervisory authorities**,** including the CFB**,** the Money Laundering Control Authority as well as the Reporting Office in particular, will be vital in convincing the entire financial sector of the need actively to participate in preventing money laundering. As regards the non-banking sector the Money

Laundering Control Authority, as empowered by the LBA, has to act effectively, particularly in sectors at present not covered such as money changers.

51. In legal terms, the provisions on seizure and confiscation and on offences under the Criminal Code which largely reflect Recommendation 4, are to be welcomed. The absence of real prosecution powers at federal level is an obstacle to effective prosecution. Giving power to the public prosecutor of the Confederation as is at present being considered, is a first step, but does not seem to go far enough. Real progress would be made by giving the Confederation -- as proposed in the draft overall revision of the Constitution -- power to legislate on criminal procedure.

Netherlands

52. The major sources of illegal proceeds in the Netherlands are believed to be fraud and drug trafficking. The patterns of money-laundering have changed as a result of the enactment of the anti-money laundering legislation and the growing awareness by financial and non-financial institutions of the phenomenon of money-laundering. The carriage of cash across borders with neighbouring countries has increased, as has the use of money transfer businesses. Whilst the number of bureaux de change has decreased significantly, other areas of money laundering concern remain. One issue is the inflow of money from some countries of the former Soviet Union and Eastern Europe, the origin of which cannot be checked, whilst another is the operation by representative offices of certain foreign banks of "collection accounts" to send money on behalf of their nationals back to the country of origin.

53. The principal aims of the Dutch anti-money laundering system are to protect and maintain the integrity of the financial system, and to detect and prosecute activities concerning money laundering. The heart of the system is the mandatory reporting of unusual transactions on the basis of objective and subjective indicators. The investigation and prosecution of financial crime is a priority for the government, as is the exchange of information and co-operation, both nationally and internationally. Since the first evaluation, some of the more significant changes have been the enactment of the Identification (Financial Services) Act (the Identification Act) and the Disclosure of Unusual Transactions Act (the Disclosure Act); the licensing and supervision of bureaux de change; and the expansion of the reporting obligation to credit card companies, bureaux de change and casinos.

54. The anti-money laundering system in the Netherlands is comprehensive and progressive, and is subject to a continuous process of review and improvement. The government has responded positively to many of the suggestions for improvement in the first mutual evaluation report, and the result is a system which meets, and in many areas goes beyond, the forty Recommendations. The solid legislative basis has been complemented by an active system of supervision, co-operation, education and training in the financial sector. All relevant parts of government, supervisors and the private sector are involved in the fight against money laundering, and the general approach is one of professionalism and commitment by all agencies concerned. Despite this, there are some areas for improvement.

55. The penal offence has a broad scope as it covers all predicate offences, and the mens rea extends to reasonable suspicion. The legislation will be strengthened though if money laundering is made an offence separate from receiving, and the position regarding the elements that need to be proved in relation to foreign predicate offences is clarified. The confiscation system also appears to have a solid legal foundation, though it is unclear from the statistics how well the system is working. However, it is most important that a solution be quickly found to the problems caused in the "Bucro" case, which prevents the seizure and confiscation of assets held in the name of a third party legal entities, even if they are derived from criminal activity. These issues are currently being examined.

56. Measures taken in the financial sector regarding such matters as customer identification and the supervision of institutions such as bureaux de change provide a model that could be followed in other countries. Through the government committees and working groups, the major financial institutions and their associations have shown a high level of commitment, and these result in strong interaction between the government and the private sector, and a constant examination and review of potential sources of weakness. The system of reporting unusual transactions to the financial intelligence unit (MOT), which then reports the suspicious transactions to law enforcement appears to be working effectively in most respects. However there are some potential risks which need to be addressed - in particular there needs to be an increased emphasis on non-cash money laundering and continued attention needs to be paid to the lack of reports from the securities and insurance sectors. The extension of the reporting system to professionals such as lawyers, notaries and accountants should be seriously examined, and minor refinements could be made in relation to feedback and the exemptions available to reporting institutions.

57. The Netherlands is party to a wide range of international instruments which allow it to provide and make requests for all types of assistance. This would be further strengthened if the requirement of a treaty or agreement was removed. Administrative co-operation between MOT and other similar bodies needs to be further improved through entering more agreements (memoranda of understanding) for the exchange of information at an international level.

58. Overall, the legal and administrative structure for the anti-money laundering system appears to be an effective one, with strong efforts made to promote and co-ordinate anti-money laundering activities in many parts of government and the financial sector. The results in several areas are not apparent because of the lack of statistics, and this makes it difficult to judge the true effectiveness of the system. However the basic structure is a strong one, and combined with the firm commitment at all levels and the resolution of the deficiencies identified above, this will result in a very strong anti-money laundering system.

Germany

59. The major sources of illegal proceeds in Germany are believed to be from drug trafficking, property offences, and the smuggling of alcohol and cigarettes. Other crimes which generate significant profits for organised crime include subsidy fraud against the European Union, counterfeiting, illegal arms sales, extortion, prostitution and investment fraud. The amount of international criminal activity and the profits generated from crime have increased considerably since the last evaluation. It appears that criminals have increasingly resorted to areas where no safeguards have been taken or where regulatory bodies do or did not exist, such as bureaux de change, money remittance and cross border transportation of cash etc. A large amount of money is transferred to Germany from Eastern Europe and the C.I.S states, often through cash importation, but the source of that money is unknown in most cases. Other money laundering techniques and trends which have been observed include the purchase of luxury goods, and the increasing use of so-called collective accounts of foreign credit institutions or the representative offices of such.

60. A twofold approach has been adopted to counter money laundering. Measures within the financial sector are intended to have a preventive effect, while criminal provisions such as the money laundering offence and confiscation laws will punish the offender for the criminal activity as well as depriving him of any illegal benefits. Since the first evaluation, the most significant changes have been the extension of the list of predicate offences for money laundering to include less serious offences committed on a commercial and gang basis, and an amendment to the Banking Act which made bureaux de change, money transmitter agencies, brokers, and other companies offering financial services subject to banking supervision. Legislation is also pending which will, inter alia, extend the list of predicate offences for money laundering and criminalise

money laundering activity by the predicate offender; facilitate the provisional seizure of suspicious amounts of money; raise the threshold for customer identification in occasional transactions over DM 30,000 (US$ 16,700); and increase the involvement of the tax authorities in combating money laundering.

61. In most respects the legal framework for the German anti-money laundering system is comprehensive and strong, and in compliance with the forty Recommendations. Certain deficiencies were identified by the German authorities and this has led to amendments which have either been brought into force or are proposed, and all these measures will substantially strengthen the system. The penal legislation in relation to money laundering and the seizure and forfeiture of criminal proceeds is basically sound and comprehensive, and though the number of convictions obtained for money laundering is disappointing, there is a significant commitment to pursuing this offence. The offence will be strengthened by making the predicate offender liable for laundering his own proceeds. The confiscation legislation provides for a wide range of measures, but the available statistics indicate that the amount of money confiscated is quite small, and this suggests that there is a significant problem of implementation. The amendments to deal with the claims of victims and the issue of "urgent suspicion" will help to make the system more effective, but consideration should also be given as to how the concept of extended forfeiture can be used more effectively within the limits of court decisions. There would also be benefit if the concept of units dedicated to the proceeds of crime and money laundering issues were introduced.

62. Law enforcement powers and resources in relation to money laundering are sufficient, and bilateral co-ordination and co-operation appears to work reasonably well. However, as stated in the first mutual evaluation report, there is an urgent need to implement a more efficient and effective structure to centralise the STR reporting procedure. The establishment of a central reception point or financial intelligence unit would be the most effective option, and an extension of the joint financial investigation group concept which is currently operating may be a solution. If this is not realistic within the political context, then a minimum requirement must be the creation of a central data-base accessible to all law enforcement agencies. Given that steps have already been taken by the ZKA to develop a system, this project should be completed and implemented as soon as possible, and should be supplemented by ensuring that all relevant law enforcement agencies have access to the databases maintained by the Länder.

63. The results of the suspicious transaction reporting system show that the number of cases generated from STRs has remained fairly static and that the vast majority of reports come from banks, with insurance companies also contributing a significant number. The system could be improved through efforts to resolve weaknesses such as the comparatively modest number of reports, the over-emphasis on cash transactions, and the lack of reports from outside the banking and insurance sectors. The quality of STR reporting would also improve if there was increased feedback to financial institutions.

64. Measures in the financial sector are characterised by extensive obligations and a comprehensive framework in certain parts of the financial system, but with distinct areas of weakness and inconsistency in other parts. The extensive and thorough guidelines, the innovative training and education process, active supervision of banks and insurance companies' anti-money laundering compliance, and the commitment of such institutions are most commendable and provide an example for other jurisdictions. However, the extensive obligations in the Money Laundering Act (the Act) impose some unnecessary burdens. The increase of the threshold for customer identification in relation to large cash transactions to DM 30,000 is helpful, but should be accompanied by measures to eliminate the requirements to identify customers making cash withdrawals. The use of s.154 of the Fiscal Code for customer identification when opening an account creates several weaknesses, and the legislation would be strengthened if this obligation was set out in the Act. One matter of concern is the lack of specific sanctions for: (a) failing to comply with the obligation under s.154, (b) breach of the FBSO and FISO guidelines, and (c) non-compliance with the requirements laid down in ss.6,

11 & 14 of the Act (suspicious transaction identification, STRs and safeguards). All these requirements should be made subject to sanctions such as administrative proceedings and a possible fine. Stricter supervision of NBFI, and particularly casinos, which are supervised by Land authorities is needed, though the situation should improve with the transfer of supervisory responsibilities to the FBSO.

65. The framework for mutual legal assistance is fundamentally very sound, and with a few minor modifications would be an exemplary system. Co-operation at an administrative level is made more complex by the federal system, fragmented nature of the law enforcement response to money laundering, and the lack of any centralised database for all STR. Co-operation with police and Customs authorities in other countries appears to be working well, but the inability to directly exchange information with so-called administrative FIUs is a weakness. Consideration should be given to entering into agreements or understandings which would give law enforcement agencies which have access to all STR the ability to co-operate directly with such bodies, provided they observe similar obligations of secrecy as exist in Germany.

Italy

66. The main sources of illegal proceeds in Italy are derived from fraud, corruption, international drug trafficking, extortion as well as organised crime. The structure of the organised crime, based on associations (clans, families) which control drug trafficking, smuggling, etc., means that a large part of the illicit proceeds is channelled into domestic financial and/or commercial circuits. This implies that these organisations ("cosa nostra", "ndrangheta", "camorra", "sacra corona unita"), exercise a firm control on the territory where they are located as well as on local business activities. In some recent cases, it has been noticed that organised crime (especially "cosa nostra") has been engaging in increasingly sophisticated money laundering activities, with the help of highly skilled external consultants or independent organisations. The internationalisation of the Italian criminal organisations means that funds are transferred to less regulated countries, thus reducing the chances of being detected. However, this does not rule out an interest by organised crime in local investments including financial ones.

67. Law no. 197 of July 1991 instituted measures to curtail the use of cash and bearer instruments in financial transactions and to prevent the criminal use of the financial system for money laundering purposes. Its key provision is the prohibition of transfers of cash and bearer instruments in amounts greater than L 20 million (about US$ 12,000), except when such transfers are carried out by means of authorised intermediaries which are required to identify customers and register transactions. Other main provisions deal with the reporting of suspicious transactions and the monitoring of financial intermediaries' compliance with the law.

68. The provisions establishing money laundering as an offence were amended in 1993, to widen the original scope of predicate offences to "all intentional criminal offences". Recently, a Legislative Decree (no. 153/97 of 26 May 1997) amended the laws in force by three important measures: firstly, so as to enhance compliance with the obligation to report suspicious transactions, ensuring that the identity of any person reporting such information be kept absolutely confidential; secondly, the centralisation of the reporting of suspicious transactions to the Ufficio Italiano dei Cambi (UIC) a public institution chaired by the Governor of the Bank of Italy and thirdly, operational links were established for money laundering between financial, investigative and judicial authorities as far as organised crime is concerned. In the near future, the Government is planning to extend the scope of specific categories of non-financial businesses to anti-money laundering measures. Moreover, a review of the anti-money laundering legislation has already started in order to strengthen it by introducing new provisions or eliminating redundancies.

69. The Italian Government has made significant progress in combating money laundering since its last mutual evaluation in 1993. The changes it has effected are for the most part quite recent and derive from the latest anti-money laundering legislation, Legislative Decree no. 153/97. The most significant change provided for in the Decree is the designation of a single recipient for suspicious transaction reports, namely, the Ufficio Italiano dei Cambi, thus in effect becoming Italy's Financial Intelligence Unit (FIU). Previously, reports from financial institutions were reported to the local police.

70. Law enforcement efforts also focused on the financial aspects of organised crime have aided Italy in achieving a degree of sophistication which the new reporting system should further strengthen. This observation also applies for the legal measures because Italian anti-money laundering legislation has been developed taking also into account the need for combating organised crime. The scope of the Italian legislation is now very wide and the legislative base both for confiscation and money laundering offence is sound domestically and also, following new legislation in 1993, internationally. However, extending the anti-money laundering provisions to cover corporate liability would improve the system. In addition, the decision of the Italian Government to consolidate all the various laws into a more accessible form would also assist in training and in general use.

71. Measures in the financial sector are characterised by extensive obligations and a comprehensive framework. However, the implementation of these measures by non-bank financial institutions not subject to prudential supervision presents some weaknesses in comparison with the very innovative internal procedures and training programmes carried out by the banks and other financial institutions regulated in a similar manner. Further supervision, guidance and training is therefore needed for non-bank financial institutions not subject to prudential supervision in order to improve their participation in the reporting of suspicious transactions. It is also quite clear that the envisaged extension of the anti-money laundering provisions to individuals or companies carrying out activities which are particularly liable to being used for money laundering purposes will considerably strengthen the Italian anti-money laundering system. For all these reasons, it is hoped that the new legislation will be enacted soon.

72. Overall, the legal and administrative framework of the Italian anti-money laundering system appears to be fundamentally sound, characterised by commendable efforts to improve the major deficiencies identified in the first mutual evaluation. In addition, the strong and firm commitment at political and high civil servant level to combat money laundering is evident. The establishment of an Interagency Policy Commission, comprising all the ministries and agencies concerned, if properly implemented, should be able to exercise strong and effective overshight. The lack of available statistics in certain areas and the weaknesses related to the previous system for reporting suspicious transactions, make it difficult to judge the true effectiveness of the system. However, it is expected that the full implementation of Decree Law no. 153/97 will result in an effective anti-money laundering system.

Norway

73. Drug trafficking together with smuggling and illegal trade in goods subject to high rates of taxation - such as alcohol and tobacco - remain the most significant sources of illegal income. Various types of economic crime, such as national and international investment fraud, invoicing frauds, tax and VAT fraud, and bankruptcy fraud against creditors also appear to be generating a large amount of illegal proceeds and the problem is increasing. As regards money laundering trends, there are indications of increasing cash movements across the borders, and criminals residing in Norway are depositing cash into banks in foreign countries, before transferring the money back to Norway as loans. Like many other countries, Norway has a problem with funds related to persons or companies from the former Eastern Bloc Countries, due to the difficulty of clarifying whether the funds are legal or not. Non-financial businesses or professions are also regularly used in the various stages of the money laundering process.

74. Norwegian control policy on money laundering is based on international initiatives, and an old preventive principle of Norwegian law that crime shall not pay. Measures that are considered important in meeting Norway's anti-money laundering objectives are: (a) increasing the risk of detection and prosecution; (b) improving the tracing and confiscating of illegal proceeds; and (c) facilitating international co-operation. The most significant changes since 1993 have been amendments which entered into force on 1 January 1997, and which extended the predicate offences for suspicious transactions reporting to offences with a sentence greater than six months; extended the preventive measures to the Central Bank, Postbank and more non bank financial institutions; and made available to ØKOKRIM information gathered pursuant to the system of reporting of foreign exchange transactions and the notifications of import and export of cash. The 1988 Vienna Convention and the 1990 Council of Europe Convention on Money Laundering were both ratified in 1994.

75. The money laundering offence, which covers both money laundering and general receiving offences, is very broadly worded and provides a firm basis for prosecution. However, consideration could be given to a specific money laundering offence, which is not part of the general receiving offence. The present confiscation legislation provides a basic structure, and if the recommendations of the Commission on Confiscation are fully implemented, the system should be a strong and effective one. The proposals to reverse of the burden of proof, extend provisions so as to allow illegal assets to be recovered from third parties and extra measures relating to provisional measures and enforcement are all to be commended. Further administrative resourcing measures are required, as are training initiatives, and staff dedicated to the issue of proceeds of crime in the police districts. In relation to international co-operation, Norway is party to a wide range of international instruments which allow it to provide assistance. This would be further strengthened if operational co-operation between ØKOKRIM and similar foreign bodies were improved through an easing of the secrecy requirements and the entering of more memoranda of understanding to exchange information.

76. The efforts of ØKOKRIM have enhanced the suspicious transaction reporting system, but further changes are required to make the operational and investigative aspects of law enforcement more effective. An increase in resources allocated to ØKOKRIM will allow it to effectively fill the central role that has been allocated to it. The Norwegian police appear to have a more limited knowledge of anti-money laundering procedures and need comprehensive training on the issue of money laundering, so that they can successfully investigate and prosecute such cases. Customs should be taking an increased co-operative role in relation to investigations through an enhanced input in relation to cross-border transactions and more effective measures to combat smuggling and related money laundering. Implementation of the recommendations of the Commission on Investigative Methods should lead to an improved legal framework in relation to new investigative techniques and these measures should be used more frequently in practice.

77. The basic structure of the anti-money laundering measures for the financial sector as set out in the Financial Services Act and Regulations is sound. All the basic elements are there, and the amendments of 1 January 1997 helped to considerably strengthen the legislation. The larger banks are fully supportive of the anti-money laundering initiatives, and are co-ordinate with government authorities, though they would like to increase the degree of contact and exchange of information. However, some further measures would enhance the system.

78. Insurance companies need to be expressly referred to in the Act. A careful and comprehensive study should be made of the categories of non-financial businesses or professions which should be brought under the Act and Regulations. The STR provisions are strong ones, and the system of feedback is excellent, but there is a need to encourage greater and more widespread reporting through increased training and education. The more active involvement of Kredittilsynet in a number of these issues will also improve the implementation of anti-money laundering measures throughout the financial sector.

79. In general, the anti-money laundering system in Norway is solidly based and meets almost all the requirements of the FATF forty Recommendations, and in certain areas the anti-money laundering legislation and system has the potential to be very effective. The positive response to many suggestions of the 1993 FATF report has led to an enhancement of the system, and this has been complemented by the strong role provided by ØKOKRIM in seeking to make the anti-money laundering system effective. Increased expertise and support from other parts of government, together with implementation of the further changes referred to above, will make the system a fully effective and efficient one.

Japan

80. It may be assumed that substantial volumes of criminal gains are laundered in Japan although these acts are not all criminalised. The principal sources of these laundered gains are probably drug crime and fund-raising offences (illicit gaming, extortion, illicit betting, as well as violent crime and property-related offences of all kinds) committed by criminal organisations, e.g. the Boryokudans (Japanese mafia). The latter commit a variety of crimes in pursuit of a vast amount of funds, sometimes abusing legitimate corporate activities. The laundering in Japan, whether each act is criminalised as a money laundering offence or not, of an appreciable volume of gains from foreign crime cannot be ruled out either.

81. Until recently, the Japanese Government had focused its attention on combating drug money laundering. The most important piece of legislation in this respect is the Anti-Drug Special Law (ADSL) which was adopted by the Diet on 2 October 1991, and became effective on 1 July 1992. The ADSL penalises money laundering by prescribing the offences of concealment and receipt of illicit proceeds derived from drug offences. It also enlarges the system of confiscation (including value-based confiscation) and introduces freezing of illicit proceeds, as well as the suspicious transactions reporting system of which the only target is illicit proceeds from drug offences. In accordance with the FATF forty Recommendations and ADSL, financial supervisory authorities have put financial institutions under an obligation to identify their customers on the occasion of certain transactions, and to make suspicious transaction reports (STRs)to their respective supervisory authorities if they suspect that properties taken might be proceeds deriving from drug crimes.

82. However, the Japanese government intends to step up action against money laundering and to reinforce the legal measures at its disposal, as follows:

- the catalogue of predicate offences for money laundering is to be substantially enlarged so as to include all criminal offences of fundamental significance, which will make it easier for financial institutions to report suspicious transactions and the provisions for freezing and confiscating assets are to be extended; and
- a financial intelligence unit (FIU) is to be established in the Financial Supervisory Agency, in conjunction with a new STR system, in which this FIU evaluates the suspicious transaction reports and pass them on through official channels to the law enforcement agencies.

83. To this end the Japanese Government has submitted to the Diet a new Anti-Organised Crime Law (hereafter referred to as "AOCL"), which would provide for the above-mentioned anti-money laundering measures. Upon the enactment of AOCL, strict enforcement of the latter and ADSL would be an effective way to further enhance the combat against money laundering.

84. The Japanese government did not begin until 1996 to remedy some of the defects identified in the first mutual evaluation (the limitation of predicate offences for money laundering to drug crimes, the lack of guidelines for STRs by financial institutions, the lack of a central agency for the receipt of STRs and the limited access of investigatory authorities to these reports). Thus guidelines on STRs were issued in July 1996 and the police are now notified of STRs without an express request. To date, however, this has not brought any decisive improvement in combating money laundering. The low number of STRs shows that investigators are still deprived of the information from financial institutions that is very useful for initiating and assisting investigations. Effective improvements in action to counter money laundering may be expected should the draft of the AOCL come into effect. This applies in particular to the extension of the catalogue of predicate offences and the installation of an FIU at the Financial Supervisory Agency.

85. Pending the adoption of the AOCL, the current legal anti-money laundering provisions of Japan can be assessed as virtually ineffective because of the limited scope of the money laundering predicates and the direct tracing requirements placed on law enforcement. In addition, these provisions have seldom been used in the fight against money laundering. Compared with other leading international financial centres, the low level of STRs in Japan demonstrates obvious weaknesses in the anti-money laundering system. While the uniqueness of the Japanese economy may contribute to a lower level of STR than western economies, it is difficult to comprehend why an economy of Japan's size and its drug problem should not have led to a more reasonable level of disclosures.

86. While the police appeared to be highly motivated towards money laundering investigations, they do lack valuable tools to assist them in their efforts. In addition, law enforcement and prosecutors must become more proactive in their approaches to detecting and prosecution money laundering. Additional measures, such as setting up independent anti-money laundering units in the investigatory authorities, close co-operation among law enforcement authorities, the Financial Supervisory Agency and its FIU, and use of special investigation methods including electronic surveillance which is incorporated in the AOCL, would greatly assist in the fight against money laundering.

87. The Japanese financial institutions have shown some appreciation of the money laundering problem in Japan and the vulnerability of the financial system. Nevertheless, in practice, there are doubts as to how well their appreciation of the money laundering problem is translated into anti-money laundering action, and whether front-line staff are properly and adequately trained and encouraged to identify and report suspicious transactions. In addition, more industry-specific and detailed guidelines to money changers, securities dealers, insurers and other financial institutions, including those drawn from international typology experience should help to improve the system.

88. As a whole, the current Japanese anti-money laundering system is not effective in practice. In this context, Japan's intention to step up action against money laundering is more than welcome. However, it will not be possible to assess the effectiveness of the future system until it has been in place for several years.

Greece

89. Drug trafficking remains the major concern for Greek authorities, and it is estimated that it accounts for a large part, probably in excess of 50%, of the proceeds of all Greek criminality. Other serious crimes of concern include smuggling, particularly in the antiquities trade, usury, major fraud and other crimes connected with organised crime, as well as other economic crimes such as tax evasion. There is a lack of strong evidence clearly identifying money-laundering trends, however cash placement still seems to be the main problem. The influx of refugees and so-called “economic migrants” from neighbouring Balkan countries has led to increased crime, whilst the activities of some émigrés from the former Soviet Union have been the subject of suspicious transaction reports. There has also been an increase in the physical cross-border transportation of cash, especially foreign banknotes, with such money being deposited temporarily in Greece and then transferred abroad.

90. Greece has attached a high priority to the development of its anti-money laundering framework and policies, and since the first mutual evaluation has worked to build up a satisfactory legislative framework, an effective organisational structure, and an adequate mechanism to ensure compliance and enforcement. The most significant changes were the enactment of : (a) Law 2331 of 24 August 1995 which established the money laundering offence, dealt with confiscation and provisional measures, and introduced provisions to enhance co-operation between law enforcement authorities and financial institutions and suspicious transaction reporting (STR). It also laid the groundwork for the establishment of a central authority (the "Competent Committee"), the

functioning of which was completed by Presidential Decree 401/10 December 1996; and (b) the creation of the Financial and Economic Crimes Office with powers to investigate economic crimes, including money laundering.

91. The money laundering offence extends to 20 predicate offences, and makes it an offence if the defendant knew that the property was derived from criminal activity. This could be strengthened if the offence was extended to at least all serious offences, and the mental element of the offence widened to at least gross negligence, though perhaps with less severe penalties than provided for the intentional offence. The provisions relating to confiscation and provisional measures are generally adequate, though some provisions such as article 3(1) Law 2331, which reverses the burden of proof, have the potential to be very effective. However the provisions to confiscate and seize property from non bona-fide third party owners could be enhanced, and it is a matter of concern that no confiscations and few seizures have taken place. This problem should be considered and rectifying measures taken where needed. As regards international co-operation, the most important step is for Greece to ratify and fully implement the 1990 Council of Europe Convention as soon as possible.

92. The creation of the Competent Committee as the financial intelligence unit for Greece has set up a unique structure for the receipt, investigation and analysis of STR. The Committee has a wide range of experience available in its membership, and possesses extensive powers, but because it is a part-time body it will need to carefully monitor its workload and the administrative arrangements with other Greek authorities as they develop. The suspicious transaction reporting system has only been in full operation for 18 months and it is too early to fully assess how effective the system is, and though the results so far are modest, they appear to be progressing the right direction. Some further measures or issues which should be considered include extending the obligation to report to all criminal offences, supplementing the guidance and education which is provided in relation to reporting, whether the time period in which the Committee must consider reports is adequate, and enhancing general and specific feedback.

93. The basic structure of the anti-money laundering measures for the financial sector as set out in Law 2331 and ancillary provisions is sound, though the system of laws, guidelines, education and training appears to have been much more effective in the banking sector than in the non-bank financial sector. The Hellenic Banking Association and the Bank of Greece, and more recently the Competent Committee, have taken a strong and active role in promoting anti-money laundering measures and must be commended for this. Although there also appears to be a preparedness to adopt anti-money laundering measures by non-bank financial institutions, the progress has been considerably slower. The supervisory authorities, and particularly the supervisor for the insurance sector, need to take a more active role in checking the implementation of effective anti-money laundering measures in the non-bank financial sector, through a program of increased supervision, guidance and training.

94. Since the first mutual evaluation in 1994 Greece has made considerable advances and the platform that has been built will provide a sound springboard for the future. The Greek anti-money laundering system now meets most of the 40 Recommendations, and though lack of statistics and data, as well as the fact that major legislative and regulatory measures are quite recent, made it difficult to accurately assess the effectiveness of the system, it appears to be working reasonably well in several areas. Despite this, the results achieved so far, though moving in the right direction, are modest, and Greece will need to continue to monitor the system and implement the necessary changes to make the system more effective.

C. APPLICATION OF THE FATF POLICY FOR NON-COMPLYING MEMBERS

(i) Principles

95. Being aware that it could not expect others to do what certain of its members fail to do, FATF defined in 1996, a policy for dealing with its members which are not in compliance with the initial forty Recommendations. The measures contained in this policy represent a graduated approach aimed at enhancing peer pressure.

(ii) Steps applied in 1997-1998

Austria

96. In accordance with the request made at the June 1997 FATF meeting, Austria reported back to the FATF in February 1998 on the anti-money laundering measures it had taken between June 1997 and February 1998, and the plan of action that it proposed to remove the problems identified in the report. Austria advised that it had:

- amended the common note of interpretation so as to require identification of trustors by lawyers, notaries and certified public accountants;
- acted to clarify other identification requirements;
- created guidelines concerning the protection of employees of credit and financial institutions which act as witnesses;
- set up procedures to obtain extra statistics; and
- published a draft Bill regarding the removal of the monetary threshold of ATS 100,000 in Art 165 Penal Code.

97. However, Austria also advised that the Austrian government had not altered its position in relation to anonymous passbook for Austrian residents. In consequence of this failure, the President wrote a letter to the Austrian government indicating the concern of the FATF regarding the lack of progress in removing the anonymous passbooks. Due to the failure of the Austria to indicate that it would be taking positive steps to remove the passbooks, it was decided to pursue the measures in the FATF policy for non-complying members, i.e. to send a high level mission to Vienna in order to reinforce this expression of concern.

Canada

98. It was suggested during the discussion of the second Canadian mutual evaluation report in September 1997 that Canada provide a progress report, in view of serious concerns over its failure to comply, or to comply fully, with a number of the forty Recommendations. Canada provided a progress report at the June 1998 Plenary meeting and advised that:

- The Department of the Solicitor General had issued a public consultation paper which sets out proposals for :

  a) a mandatory suspicious transaction reporting (STR) system, which would be based on sets of indicators;
  b) offences for failing to file a report and filing a false report, as well as a “tipping-off” offence;
  c) protection from criminal and civil liability for any person or body which makes a report;

d) the establishment of a federal authority as a new financial intelligence unit (FIU) which would be at arms-length from law enforcement, and which would receive all STR, as well as reports on cross-border transactions, and information from foreign FIU;
e) a cross border reporting system for currency and monetary instruments greater than C$ 10,000, as well as powers to seize as forfeited if no declaration is made. An administrative process for remission of penalty might also be included.

- the Solicitor General has indicated that following the consultation period, Canada intends to table legislation as soon as possible, and probably during autumn 1998;
- Canada was considering signing the 1990 Council of Europe Convention, and will consider in the future the question of amending its legislation to allow enforcement of foreign confiscation orders. However no timeframe has been set for these measures;
- in relation to customer identification, including beneficial ownership, Canada is reviewing the existing regulations and practices with a view to issuing fuller and more comprehensive draft regulations for public comment in autumn 1998, which could come into force in spring 1999;
- it will review the existing coverage of its anti-money laundering regulations with a view to expanding coverage to further categories of non-bank financial institutions such as check cashers, money remitters and postal money order business;
- it will review existing guidelines on matters such as customer identification, record keeping, internal controls and Recommendation 21, with a view to closing any gaps. The federal guidelines will be reviewed initially and revised as appropriate for all federally regulated financial institutions. Furthermore, the federal government will be working with provincial governments and regulators regarding their role in furthering compliance with the FATF Recommendations through the provision of appropriate guidance to provincially regulated financial institutions. Additional measures will be taken with respect to sectors which are not subject to supervision. It was indicated that Canada hopes to achieve some results by spring 1999, although noting that any initiatives are likely to be developed and implemented over the longer term.

Canada offered to provide a further report to the Plenary at the FATF meeting in February 1999.

III. REVIEWING MONEY LAUNDERING METHODS AND COUNTER-MEASURES

99. The FATF conducted a further survey of money laundering methods and countermeasures which provides a global overview of trends and techniques. In this context, the issues of money laundering through new payments technologies (smart cards, banking through Internet), and the non-financial businesses and remittance companies were addressed. Two other areas of work were the issues of how to improve the appropriate level of feedback which should be provided to reporting financial institutions, and the continuation of work on estimating the magnitude of money laundering. Finally, the FATF convened a second Forum with representatives of the world's financial sector institutions.

A. 1997-1998 SURVEY OF MONEY LAUNDERING TRENDS AND TECHNIQUES

100. The FATF typologies exercises provide a forum for the exchange of information and intelligence on prevailing trends in money laundering and effective countermeasures, through an annual meeting of experts

from member law enforcement agencies and regulatory authorities. The following paragraphs summarise briefly the conclusions of this year's survey.[7]

101. In addition to money laundering via non-financial professions and businesses, which was the main subject for the FATF-IX typology exercise, the experts also discussed issues relating to companies which specialise in international money transfers, and new technology payments. With regard to new technology, much work has still to be done before all the related money laundering dangers have been clearly identified and before any possible specific counter-measures can be considered. However, even at present, the speed at which transactions are performed in this sector, admittedly an advance in itself, seems to pose grave threats to the adequacy of the traditional anti-money laundering methods as they relate to the systems of new payment technologies. With regard to companies specialising in international money transfers, consideration and action were both further advanced, judging from the scale of counter-measures already in place in many FATF member countries.

102. Among other typologies of interest, particular emphasis was placed on money laundering through the gold market. Although FATF has already devoted considerable attention to sectors such as insurance or money changing, the involvement of both in money laundering is still clearly on the increase. With regard to the bureaux de change sector, it is clear that further consideration must be given to the consequences of the conversion of European currencies into the Euro. Finally, the survey of money laundering trends in non-member countries again proved most instructive. Although progress is being made in implementing anti-money laundering measures outside the FATF membership, much still remains to be done to mobilise many countries which remain somewhat passive and complacent about the financial, economic, political and social dangers posed by money laundering.

103. The 1997-1998 typologies exercise was marked by a more targeted form of discussion than in previous exercises. Since the classic mechanisms for laundering are now well identified, the main challenge in the future will be to survey the emergence of new areas which are not yet fully mapped, such as electronic money and new-technology forms of payment, non-financial professions, the insurance sector and stock exchange dealers.

B. OTHER AREAS OF WORK

(i) Providing feedback to financial institutions

104. Following consideration of the range of general and specific feedback that was being provided in FATF members, and having regard to the importance of providing appropriate and timely feedback, it was decided that a set of guidelines indicating current best practice would be prepared. The guidelines recognise that ongoing law enforcement investigations should not be put at risk, that secrecy laws in some countries may prevent their financial intelligence unit from disclosing significant feedback, and that general privacy laws can also limit feedback. Therefore, the guidelines are not mandatory requirements, but are meant to provide assistance and guidance to financial intelligence units, law enforcement and other government bodies which are involved in the receipt, analysis and investigation of suspicious transaction reports, and in the provision of feedback to reporting institutions on those reports. The Guidelines[8] were discussed with representatives of the financial services sector at the Second FATF Financial Services Forum in June 1998.

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7 The Report of FATF-IX on Typologies is at Annex C.

8 See Annex E.

105. Amongst the recommendations relating to general feedback are the following : (a) statistics be kept on the reports received and on the results obtained, together with appropriate breakdowns of that information; (b) the statistics on the reports received are cross referenced with results so as to identify areas where money laundering and other criminal activity are being successfully detected; (c) new money laundering methods or techniques, as well as trends in existing techniques are described and identified, and that institutions are advised of these trends and techniques; (d) that sanitised cases be made available to reporting institutions, and that each case could include a description of the fact,
a summary of the result, a description of the inquiries made by the FIU if appropriate; and a description of the lessons to be learnt from the reporting and investigative procedures that were adopted in the case. Consideration should also be given to providing other general information, such as an explanation on money laundering process, the legal obligations regarding reporting, the procedures and processes etc.

106. The guidelines also consider the methods by which such feedback can be provided, and these include annual reports, regular newsletters, videos, electronic information systems such as websites, electronic databases or message systems, meetings with institutions, conferences and workshops, and working or liaison groups. When deciding on the methods of general feedback to use, each country should take into account the views of the reporting institutions as to degree to which reporting of suspicious or unusual transactions should be made public knowledge.

107. Specific feedback is more difficult to provide than general feedback, for both legal and practical reasons. Practical concerns include not putting ongoing law enforcement investigations at risk and the issue of resource implications, while legal issues can involve secrecy laws relating to the financial intelligence unit or general privacy laws. Finally, there is a need to ensure the safety of the staff of institutions, and to protect them from being called as witnesses in court. Having regard to all these matters, it is recommended that whenever possible, the following specific feedback is provided:

- receipt of the report should be acknowledged by the FIU;
- if a report will be subject to a fuller investigation, the institution could be advised of the agency that will investigate the report, if this would not adversely affect the investigation; and
- if a case is closed or completed, whether because of a concluded prosecution, because the report was found to relate to a legitimate transaction or for other reasons, then the institution should receive information on that decision or result.

(ii) Estimating the magnitude of money laundering

108. During 1997-98 work continued on the study to estimate the magnitude of money laundering. An Ad Hoc group, chaired by the head of the United States delegation, has considered a number of studies that had been completed previously as well as some current ongoing studies that consider issues relating to estimating the volume of criminal proceeds. One important strand of the work is being principally carried out by the IMF, which is updating a previous study it made in 1996 on the " Adjusted Demand for Money Model". This model estimates the impact of money laundering associated with crime on the demand for currency and money balances in the banking system, and concludes that it can have a significant impact.

109. The major part of the work of the group has focussed on obtaining agreement for a sound but practical methodology for using microeconomic data and techniques to estimate the amount of criminal proceeds available in relation to a range of serious profit generating crimes, and the amount of such proceeds available for money laundering. A meeting of experts from members and international organisations sponsored by the Chair of the Ad Hoc Group on 28-29 May 1998, considered the alternative methods and data sources that are

available for making the necessary calculations. The meeting also considered a United Kingdom study that was being prepared in the context of efforts by the European Union to develop estimates of the proceeds of certain illegal activities for national accounts purposes.

110. It was recognised that the complex questions arise concerning the availability, reliability and comparability of national and international data, and in relation to the methodology which should be adopted; however it was agreed that the FATF should continue to develop this study and that all FATF member jurisdictions should participate. The study will therefore continue during FATF-X, and will focus on researching the available national and international data, and on finalising details as to how that data can be gathered and analysed.

C. SECOND FORUM WITH THE FINANCIAL SERVICES INDUSTRY

111. One of the FATF's goals is to encourage cooperation with the private financial sector in the development of policies and programmes to combat money laundering. To further this aim, two years after the first international meeting between the FATF and representatives of the financial services industry, a second Forum was convened during FATF-IX. The purpose of this event was to discuss with the private sector, areas of common interest and ways to best develop measures to prevent and detect money laundering through the financial community.

112. Representatives from FATF members, national banking and insurance associations as well as members of the non-bank financial sector and delegates from international financial services industry organisations (Banking Federation of the European Union, International Banking Security Association, European Insurance Committee, European Grouping of Savings Banks, Federation of Latin American Bankers Association, International Federation of Accountants, the Central Bank of the Russian Federation) attended a Forum organised by the FATF in Brussels. Five general topics were addressed in the Forum: money laundering typologies exercises and the development of FATF policy; the nature of the money laundering threat and the countermeasures in the non-bank financial institutions; the implications of the new technologies (including direct banking) for money laundering and the use of these media to detect suspicious/unusual transactions; providing necessary feedback to financial institutions reporting suspicious transactions; and the role of the accounting profession in anti-money laundering action.

IV. FATF'S EXTERNAL RELATIONS AND OTHER INTERNATIONAL ANTI-MONEY LAUNDERING INITIATIVES

113. As the third component of its mission, the FATF undertakes external relations actions designed to raise awareness in non-member nations or regions to the need to combat money laundering, and offers the forty Recommendations as a basis for doing so. In promoting the adoption of anti-money laundering measures, it is important to bear in mind that the FATF does not act in a vacuum. A number of international organisations or bodies play a significant role in this respect. The following paragraphs describe the most important developments which occurred in 1997-1998 in the international fight against money laundering.

114. In general, the FATF continued to collaborate with the relevant international organisations/bodies rather than launch new initiatives. The FATF participates in anti-money laundering events organised by other bodies so that it can observe the developments taking place in non-members and in particular the adoption of money laundering counter measures. The United Nations Global Programme on Money Laundering will

contribute significantly to the implementation of these measures through the provision of training and technical assistance.

115. To increase the effectiveness of international anti-money laundering efforts, the FATF and the other organisations and bodies endeavour to co-ordinate their activities. Regular co-ordination meetings of the regional and international bodies concerned with combating money laundering take place in the margins of the FATF Plenaries.

A. FATF'S EXTERNAL RELATIONS INITIATIVES

Cyprus

116. A FATF mission to Cyprus took place at the beginning of September 1997, with the participation of an OGBS's representative, to discuss money laundering issues with the competent Government departments and the Central Bank of the Republic of Cyprus. It was quite clear that a number of important steps had been taken to fight money laundering, particularly the enactment of the Law on the Prevention and Suppression of Money Laundering Activities in April 1996. Among other measures, the Law contains a definition of a serious crimes money laundering offence and a requirement to report suspicious transactions to the Unit for Combating Money Laundering. The Republic of Cyprus has also ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. However, the FATF mission recommended that the Cypriot authorities continue their efforts, specifically with respect to the coverage of the non-bank financial sector. The mission also strongly encouraged Cyprus to undergo a joint Council of Europe/OGBS mutual evaluation of its money laundering system so that further progress can be made. This evaluation was carried out in the spring of 1998.

Russian Federation

117. A joint FATF/Bank of Russia Money Laundering Conference took place on 9-10 October in St. Petersburg, as a follow-up to the FATF high-level mission to Moscow of 1996. The Conference was attended by participants from nine FATF countries. The Russian Federation was represented by numerous delegates from the Bank of Russia, the Ministry of Finance, the Ministry of Justice, the Customs Committee, the Federal Service on Foreign Exchange and Export Control, the Ministry of the Interior, the Federal Security Service, the State Tax Service, the Tax Police, the General Prosecutor, and the Association of Russian Banks.

118. The Conference discussed the role of the financial and credit institutions in the combat of money laundering with particular emphasis on the regulatory bodies. It was pointed out that the Bank of Russia has taken a major anti-money laundering step by creating a national system of preventive measures aimed at safeguarding the banking community against dirty money. In July 1997, the Bank of Russia issued recommendations to prevent illegal funds passing through banks and credit institutions; a Directive on organising internal banking controls and a Guideline on how to organise internal controls in credit institutions which participate in financial markets. Due to a lack of legislation, these texts will assist banks and credit institutions to undertake anti-money laundering work. For the elaboration of the above-mentioned texts, the Bank of Russia used as a basis the forty FATF Recommendations.

119. Participants from the FATF countries expressed their support for the joint efforts undertaken by the Federal Government bodies and the Bank of Russia in creating a national system to prevent dirty money from entering into the economy. They also expressed the wish that the Bill on "Countering Legalisation (Laundering) of Illegally Gained Incomes" which has been pending in the Duma for more than a year, will be expedited.

B. ANTI-MONEY LAUNDERING ACTION BY "FATF-STYLE" REGIONAL BODIES

Caribbean FATF

120. Since its inception, participation in the CFATF has grown to twenty-four states of the Caribbean basin.[9] The CFATF has instituted measures to ensure the effective implementation of, and compliance with, the Recommendations. The CFATF Secretariat monitors members' implementation of the Kingston Ministerial Declaration through the following activities:

- self-assessment of the implementation of the Recommendations;
- on-going programme of mutual evaluation of members;
- co-ordination of, and participation in, training and technical assistance programmes;
- bi-annual plenary meetings for technical representatives; and
- annual Ministerial meetings.

121. To further its mandate to identify and act as a clearing house for facilitating training and technical assistance needs of members, the Secretariat works closely with regional Mini-Dublin Groups, the diplomatic representatives of countries with interest in the region. Prominent here are Canada, France, the Netherlands, the United Kingdom and the United States. There is also close liaison with CARICOM, the Caribbean Customs Law Enforcement Council (CCLEC), the Centre Interministériel de Formation Anti Drogue (CIFAD) in Martinique, the Association of Caribbean Chiefs of Police (ACCP), the Commonwealth Secretariat and the International United Nations Drug Control Programme (UNDCP).

122. Supported by, and in collaboration with UNDCP, the CFATF Secretariat has developed a regional strategy for technical assistance and training to aid effective investigation and prosecution of money laundering and related asset forfeiture cases. The development of this regional strategy parallels and closely co-ordinates with similar initiatives by the European Commission and with efforts arising from the Summit of the Americas Ministerial in Buenos Aires.

123. The FATF strongly supports the significant progress which has been made by the CFATF under both the chairmanships of Costa Rica and Barbados. Three mutual evaluation reports were discussed (Costa Rica, Panama, Barbados), and six on-site visits took place (Antigua and Barbuda, Bahamas, Bermuda, the Dominican Republic, St. Vincent and the Grenadines, Turks and Caicos) in 1997-1998 together with the adoption of a firm timetable for the remainder. The CFATF also pursued its active typologies programme and the development of important internal processes, which are all significant advances.

Asia/Pacific

124. The Working Party meeting of the Asia/Pacific Group on Money Laundering (APG) which was held in Beijing in July 1997 made valuable progress. Countries in the region have started to exchange information and examine the strengths and weaknesses of their systems through the mechanism of jurisdiction reports. Measures are also proposed for improving technical assistance and training, enhancing mutual legal assistance and improving cooperation with the financial sector. The Working Party also recognised that, although regional differences need to be taken into account, the FATF forty Recommendations provide guiding principles for action in establishing an effective anti-money laundering system. The FATF stands ready to

[9] See the list of CFATF members at Annex B.

assist the APG in its consideration of how international standards such as the forty Recommendations can best be implemented in the region.

125. The Asia/Pacific Group currently consists of 16 members[10] in the Asia/Pacific region comprising members from South Asia, Southeast and East Asia and the South Pacific. In March 1998, the first annual meeting of the APG was held in Tokyo and attended by 25 jurisdictions from the region. A revised Terms of Reference was agreed, as well as an action plan for the future. The Tokyo meeting represented the full establishment of the APG as a cohesive regional group following on from the earlier awareness-raising efforts. The Asia/Pacific Group provides an essential foundation for countering the global threat of money laundering. It will lead to more effective anti-money laundering legislation in each country, and to enhanced international cooperation.

126. In addition to a statement issued on 6 April 1997 by the Finance Ministers of the Asia Pacific Economic Cooperation (APEC) welcoming the establishment of the APG, the leaders of the 1998 Asia-Europe Meeting (ASEM) asked their Finance Ministers to encourage enhanced co-operation between Europe and Asia in the fight against money laundering.

C. MUTUAL EVALUATION PROCEDURES CARRIED OUT BY OTHER BODIES

General

127. The FATF has adopted a policy for assessing the implementation of anti-money laundering measures in non-member governments. The rationale for this policy is that the implementation of a mutual evaluation procedure will encourage countries and territories not only to get on with implementing anti-money laundering laws but also to improve the counter-measures already in place. The Task Force has already validated and supported the mutual evaluation processes of other bodies which have agreed to carry out mutual evaluations of their members. In this respect, the FATF assessed the CFATF, the Council of Europe and the OGBS's mutual evaluation procedures as being in conformity with its own principles. As the latter is comprised of representatives of banking supervisory authorities, the FATF has sought formal political endorsement of the procedures and the forty Recommendations from those governments of the members of the OGBS which are not represented in either the CFATF or the FATF.

128. The FATF believes that the mutual evaluation procedures of the CFATF, the Council of Europe and the OGBS will contribute to secure the adoption of adequate anti-money laundering measures in many non-member countries and territories. The FATF has therefore furthered its co-operation with these bodies. First, it stands ready to provide assistance in the training of mutual evaluators of non-FATF bodies. Second, FATF member countries will supply observer examiners, if requested, by one of the three bodies/organisations mentioned above.

CFATF

129. CFATF member governments have made a firm commitment to submit to mutual evaluations of their compliance both with the Vienna Convention and with the CFATF and FATF Recommendations. Signalling this firm commitment is the fact that the October 1997 CFATF Council of Ministers in Barbados adopted a mandatory schedule of mutual evaluations. According to the latter, the CFATF's first round of mutual evaluations will be completed by the year 2000. In the past eighteen months of the schedule, eight members

[10] See the list of APG members at Annex B.

have undergone mutual evaluations: Costa Rica, Panama, the Dominican Republic, Barbados, St. Vincent and the Grenadines, the Bahamas, Antigua and Barbuda, and Turks and Caicos Islands. Even before this, in 1995, the Cayman Islands and Trinidad and Tobago were evaluated. By the end of 1998, Bermuda, St. Lucia, St. Kitts and Nevis, and Nicaragua will increase the number of members to have been mutually evaluated.

Council of Europe

130. In September 1997, the Committee of Ministers of the Council of Europe established a Select Committee (PC-R-EV) to conduct self- and mutual assessment exercises for member states of the Council, which would be modelled on FATF processes. Over a two year period ending in December 1999, mutual evaluations are to be conducted for the members of the Council which are not also members of the FATF. Experts from member countries of the FATF will assist with and participate in those evaluations. The process commenced with evaluations of Slovenia and Cyprus (conducted in conjunction with the Offshore Group of Banking Supervisors), and the mutual evaluation reports for those two countries were considered and adopted at a meeting of the PC-R-EV in June 1998. Further evaluations (e.g. Czech Republic, Slovakia, Malta, Hungary, Lithuania and Andorra) will be conducted during the second half of 1998.

131. In March 1998, the Council of Europe, in conjunction with the Belgian Presidency of the FATF and the European Commission, organised in Brussels a training seminar for persons from non-FATF countries who would be participating as evaluators in the mutual evaluation process. This event, which was well attended by participants from those countries, discussed the applicable international conventions and instruments, the practical aspects of the process, and the legal, financial and law enforcement components of anti-money laundering systems.

OGBS

132. FATF has received ministerial letters indicating political endorsement of the forty Recommendations and the mutual evaluation procedure from all but one member of the Offshore Group of Banking Supervisors (Lebanon). The Task Force has therefore endorsed the commencement of the OGBS mutual evaluation process, except for the aforementioned country which, as a result, has been changed from full membership of OGBS to observer status. The OGBS is taking steps to carry out its first mutual evaluations before the end of 1998; these will concern Jersey, Guernsey, the Isle of Man and possibly Vanuatu. Two other members of the OGBS -- Cyprus and Malta -- have been or will be covered by a joint Council of Europe/OGBS mutual evaluation.

D. OTHER INTERNATIONAL ANTI-MONEY LAUNDERING ACTION

United Nations

133. The Global Programme against Money Laundering (GPML), a research and technical co-operation programme implemented by the UN Office for Drug Control and Crime Prevention (ODCCP), is now in operation. Its aim is to increase the effectiveness of international action against money laundering through comprehensive technical co-operation services offered to Governments. The Programme is carried out in cooperation with other international and regional organisations. In the context of the GPML, the UNODCCP organised several important international anti-money laundering events in 1997-1998, including two awareness-raising seminars for West Africa in Ivory Coast on 1-3 December 1997 and for South Asian countries plus Myanmar and Thailand in New Delhi on 2-4 March 1998.

134. Finally, the United Nations General Assembly was convened on 8-10 June 1998 in New York for a Special Session devoted to the fight against the illicit production, sale, demand, traffic and distribution of narcotic drugs and psychotropic substances and related activities, including money laundering. The General Assembly adopted a Political Declaration in which the Member States of the United Nations undertake to make special efforts against the laundering of money linked to drug trafficking and recommend that States which have not yet done so, adopt by the year 2003 national anti-money laundering legislation and programmes in accordance with relevant provisions of the Vienna Convention and a package of measures for countering money laundering, adopted at the same session.

Commonwealth

135. Commonwealth Heads of Government at recent summits have repeatedly called for concerted action to combat money laundering which has been and continues to be a high-priority activity for the Commonwealth Secretariat. Following their last meeting in Edinburgh, in October 1997, a joint meeting of finance and law officials was convened so that a co-ordinated approach could be developed to consider further measures to combat money laundering. The joint meeting was held in London on 1-2 June 1998 and considered the four following main items:

- improving domestic co-ordination through national interdisciplinary co-ordinating structure;
- the special problems of dealing with money laundering in countries with large parallel economies;
- strengthening regional initiatives for more effective implementation of anti-money laundering measures; and
- self-evaluation of progress made in implementing anti-money laundering measures in the financial sector.

Inter-American Development Bank

136. The IDB, in conjunction with the Banking Superintendent of Colombia and the Andean Development Corporation, sponsored a seminar on the subject of asset laundering during the 1998 annual meeting of the Board of Governors in Cartagena de Indias (Colombia). The session addressed the multifaceted aspects of asset laundering activities as well as international approaches to combat money laundering on the basis of presentations made by the United Nations, the OAS/CICAD, the IDB, the IMF, the Federation of Latin American Bankers Association and the FATF. The seminar ended with certain common goals, focusing on a multilateral approach to combating asset laundering in Latin America and the Caribbean, as well as current and future activities in the region. The IDB was encouraged to: (a) use its own funds and to seek additional funding for programmes, including the training needs of supervisors, regulators and financial institutions, particularly on the detection and prevention of new laundering techniques on a regional and/or national basis; (b) serve as a clearing house for such proposed programmes, sources of funding, and potential executing entities; (c) strengthen the dialogue between private banking sectors and government regulators; and (d) use its good offices to encourage implementation of effective laws and regulatory frameworks to address the issue of asset laundering.

OAS/CICAD

137. The CICAD Group of experts to Control Money Laundering has continued to put into effect the Buenos Aires Plan of Action.[11] The CICAD Group of Experts, which meets twice a year, at its last meeting in May 1998 approved a training programme for judges, prosecutors, FIU personnel and law enforcement. It also undertook to amend the Model Regulations to expand the predicate offence for money laundering and to provide for the creation of national forfeiture funds. In addition, the Group finalised a directory of contact points for the purpose of effecting information exchange and mutual legal assistance which would be accessible through the OAS's web-page.

CONCLUSION

138. During 1997-1998, further progress was again made in combating money laundering, both within and outside the FATF membership. However, the need for continuing action against money laundering is obvious. It is for this reason that it was decided that the Task Force should continue its work for a further five years and focus its efforts to spread the anti-money laundering message to all continents and regions of the globe.

139. The globalisation of financial markets -- and financial crime -- implies that the counter-measures necessary to combat money laundering must be universally applied. To this end, the FATF will work to foster the establishment of a world-wide anti-money laundering network based on an adequate expansion of the FATF membership, the development of the FATF-style regional bodies such as the Caribbean FATF and the Asia/Pacific Group on Money Laundering, and close co-operation with all the relevant international organisations. As money laundering is an evolving phenomenon, it will also be essential to strengthen the review of money laundering trends and countermeasures. In addition, improving the effective implementation of the forty Recommendations within the FATF membership will be a critical challenge.

140. As the world-wide mobilisation against money laundering has now become the priority goal of the FATF, external action will be given a high priority in the forthcoming years. This vital task will be carried forward in 1998-1999 under the Presidency of Japan.

[11] In December 1995, the Ministers responsible for addressing money laundering in the States of the Western hemisphere met in Buenos Aires where they endorsed a Statement of Principles to combat money laundering and agreed to recommend to their Governments a Plan of Action reflecting this Statement of Principles for adoption and implementation. The Plan of Action specifically provided that the Governments intended to institute on-going assessments of the implementation of the Plan of Action within the framework of the OAS. This and other activities identified in this Plan were remitted to the CICAD for action.